IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 7387 of 2007(D)

OPMV.867/2005 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE

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PETITIONER:

AMITHA P , AGED 27 YEARS,
S/O.O.PANKAJAKSHAN, "ASWATHI",
THIRUTHIYAD, KOZHIKODE DISTRICT.

BY ADV. SRI.P.S.SREEDHARAN PILLAI
SMT.C.G.PREETHA
SMT.P.RANI DIOTHIMA

RESPONDENTS:

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1. **SHIMJITH SIVAN, S/O.SIVAN,**
   1/3695, NEAR SREEDHAR HOSPITAL,
   P.O.NADAKKAVU, KOZHIKODE DISTRICT.

2. **UNITED INDIA INSURANCE COMPANY LTD,**
   DIVISIONAL OFFICE NO.II, PB.NO.192,
   SEEMA TOWERS, MAVOOR ROAD, KOZHIKODE.

BY ADV. SRI.P.V.JYOTHI PRASAD for R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.7387/2007 D

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF I.A.NO.2893 OF 2005 DTD. 9/08/2005 OF THE COURT OF THE PRINCIPAL MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE.**

EXT.P2: **COPY OF THE ORDER IN I.A.NO.2893 OF 2005 IN OP.(MV) NO.867 OF 2005 OF THE PRINCIPAL MOTOR ACCIDENTS CLAIMS TRIBUNAL, KOZHIKODE DTD. 7/12/2006.**

/TRUE COPY/

KSS

M.N.KRISHNAN, J.

WP(C)No.7387 OF 2007 D

Dated this the 5th June, 2007.

JUDGMENT

This writ petition is filed seeking to quash the order in I.A.2893/05 in O.P.(MV)867/05 of the Motor Accidents Claims Tribunal, Kozhikode. The petition is one for referring the petitioner to the Medical College Hospital for assessing the disability so as to calculate the reasonable compensation. The claims tribunal disallowed the prayer on the ground that it could be done without referring to a medical board. In a case for compensation under the Motor Vehicles Act so many factors have to be taken into consideration while assessing the compensation including percentage of disability. The percentage of disability is only one of the indicators to fix the compensation and on account of a particular injury a person may be handicapped in other ways which also may have to be taken into consideration. Therefore, it is always advisable to get an expert report or certificate from persons competent to issue it rather than making a rough estimate by the tribunal. Therefore, the order under challenge is set aside and the writ petition is allowed and the Motor Accidents Claims Tribunal, Kozhikode is directed to refer the claimant to the medical board to be

constituted by the medical college hospital, Kozhikode especially with an expert orthopaedic and to dispose of the matter after receipt of the certificate from the medical board in accordance with law.

M.N.KRISHNAN
Judge

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